



APR 26 2002

Reply to  
Attn of: SP-02-19

Subject: Granting Exemptions to the Lunch Period by State Agencies

STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas,  
(Special Nutrition Programs) Missouri ED, Montana OPI, Nebraska,  
North Dakota, South Dakota, Utah, Wyoming

Over the past few years the Regional Office has received requests for exemptions to 7 CFR 210.10(f)(1). That provision states: "Schools must offer lunches between 10:00 a.m. and 2:00 p.m. Schools may request an exemption from these times only from FNS." These requests have provided FNS with a better understanding of the status of situations where an exemption would be appropriate. In addition, these requests have enabled FNS to make adjustments to the exemption criteria so that it can now pass the authority to grant these exemptions to the State agencies. To effect this change, the memorandum issued December 17, 1992, which assigned the authority to grant exemptions to FNS regional offices, is rescinded.

State agencies must evaluate the circumstances of each exemption request and establish that the situation meets one of the following two standards:

- Standard 1: State agencies may grant reasonable variances from the meal service requirements to accommodate special circumstances encountered in schools operating for traditional students at traditional times. For example, if a school has a legitimate need to extend the lunch service hours to 2:30 p.m. due to capacity concerns or because of extended school hours, such an exception would be considered a special circumstance and would be allowable with State agency approval.
- Standard 2: State agencies may grant exemptions from the meal service requirements if the school in question operates for traditional students, but at a non-traditional time. FNS has approved exemptions contingent upon the understanding that (a) these alternative programs provide students of high school grade or under an opportunity to obtain the minimum requirements needed for graduation at a non-traditional time, and (b) it is not possible to serve lunch at a more traditional time. For example, some work-study programs allow high school students to work in the morning or afternoon hours and attend high school classes in the late afternoon/evening. Before approving any exemption, State agencies should determine whether the authority provided

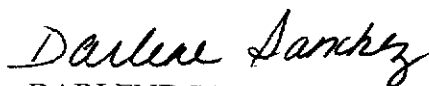
in FNS Instruction 786-8, Rev. 1, *Reimbursement for Off-Site Meal Consumption* would provide sufficient flexibility that would obviate the need for an exemption.

It is not necessary for the school food authority to seek approval each year if the conditions upon which approval was initially granted remain unchanged. However, if the conditions upon which approval was initially granted change, the exemption should be re-examined. In addition, if the special circumstances, such as overcrowding, have a prospective known ending date, e.g., the planned building of an additional school, it is recommended that the exemption be granted for a specified finite calendar period. The State agency also should consider a specified finite calendar period if it has directed the school food authority to develop an alternative to serving lunch prior to 10:00 a.m. or later than 2:00 p.m.

FNS Instruction 776-7, Rev. 1, *Eligibility of Schools and Institutions to Participate in School Nutrition Programs*, allows persons enrolled in GED programs or regular high school completion programs which operate during regular school hours in an eligible school to participate in the meal service. Under no circumstances can evening meals served to students in adult education courses or in delayed diploma programs be reimbursable.

State agencies exercising this authority must maintain records of all exemption approvals including a list of all approved sites, and denials. The State agency must make these records available for three years for review by FNS.

Please contact our office at (303) 844-0355 if you have questions.



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Regional Director  
Special Nutrition Programs